

Written Testimony of President Fawn Sharp
National Congress of American Indians
October 27, 2021

Introduction

Chairman Schatz, Vice Chairman Murkowski, and members of the Senate Committee on Indian Affairs, on behalf of the National Congress of American Indians (NCAI), I would like to thank you for holding this hearing today to discuss the critically important issue of voting rights. My name is Fawn Sharp, Vice President of the Quinault Indian Nation, and President of NCAI.

We greatly appreciate the Committee holding this important hearing on how we can address barriers to ensure the federal government protects voting rights for all Native Americans. It is very timely with the introduction of the Frank Harrison, Elizabeth Peratrovich, and Miguel Trujillo Native American Voting Rights Act of 2021 (NAVRA) and the new John Lewis Voting Rights Advancement Act. With federal elections coming up soon, the Congress has a trust responsibility to enact voting rights legislation to protect the constitutionally-guaranteed right of Native Americans to vote.

Despite being the first inhabitants and sovereigns of what is now the United States, American Indians and Alaska Natives were the last people granted the right to vote. We were not even recognized as United States citizens with a right to vote until the Indian Citizenship Act in 1924, and it took more than three decades after that before all Native Americans were able to fully participate in state elections.¹

Because many Native American reservations are rural with poor infrastructure, we still face unique barriers to making our voices heard at the ballot box. With recent court decisions and state laws increasingly taking advantage of our isolated conditions in order to make it more difficult for tribal citizens to vote, federal legislation is needed to counter the state efforts that would serve to disenfranchise Native American voters.

For example, the U.S. Supreme Court's July 2021 decision in *Brnovich v. Democratic National Committee* allows the state of Arizona to continue with practices that disenfranchise Native Americans who have to travel upwards of fifty miles to reach a post office to return their ballots.² And a law passed in the 2021 legislative session in Montana was described by the Montana Advisory Committee to the U.S. Commission on Civil Rights as "intentional discrimination. . . [that] will increase barriers to voting for Native Americans on reservations in Montana."³ We are facing present-day discrimination that capitalizes on the longstanding inequities and challenges we face every day due to failures in the execution of the federal government's trust and treaty obligations.

¹ American Bar Association, *Resolution 112* (adopted: February 17, 2020) (available at: <https://www.americanbar.org/content/dam/aba/directories/policy/midyear-2020/2020-midyear-112.pdf>).

² *Brnovich v Democratic National Committee*, 594 U.S. ____ (2021) (available at: https://www.supremecourt.gov/opinions/20pdf/19-1257_g204.pdf).

³ Montana Advisory Committee on the U.S. Commission on Civil Rights, *Voting Access for Native Americans in Montana* (June 2021) (available at: <https://www.usccr.gov/files/2021/07-15-Native-American-Voting-Rights-Advisory-Memo.pdf>).

While some progress has been made, today, there are strong forces preventing our people from fully participating in the political process. These barriers include geographic isolation, poorly maintained roads, housing insecurity, depressed socio-economic conditions, and discrimination.

The obstacles are exacerbated by the growing number of laws across the country seeking to purge voting information, limit voter registration, create language and residency barriers, and other mechanisms producing discriminatory outcomes.

The ability to vote is a fundamental right and the foundational principle of any democracy. Our people *want* to participate in democracy, but for many, barriers make this impractical or even impossible. I am going to use my brief time with you today to highlight that no matter we live, what identification cards we have, or what language we speak, Native people should have fair and equal access to voting.⁴

Residency/Address Requirements

Native voters are often barred from registering to vote when election officials insist that a physical address for their residence be provided. This is a problem because some Native voters only have post office box numbers or general delivery addresses and do not have a physical address they can provide. Additionally, some Native voters live permanently in RVs, which often cannot be used to establish an address for voting purposes.

Transitory residences both on and off the reservation likewise pose barriers to voting. On the Lummi Reservation in Washington, the tribal housing authority has 400 rental units and “40 percent of those people change every month.” As one community organizer asked rhetorically, “How do you register to vote because your address is different every couple of months”?⁵

Additionally, address requirements harm homeless Native voters who are often unable to register to vote. Finally, due to the lack of standardized postal service addresses on tribal lands, many Native voters are either unintentionally placed in the wrong voting precinct when they register to vote resulting in their future ballots being rejected, or, in some cases, election officials deliberately establish voting procedures disqualifying Native voters using non-traditional addresses.⁶

Due to the lack of residential mail delivery, poor roads, and prevalence of homes that do not have addresses, it is harder for Native Americans to register, receive an absentee ballot, and reach the polls. The most direct way of ensuring more equitable access is a federal mandate requiring on-reservation polling places and registration opportunities.

⁴ National Congress of American Indians, *Resolution MSP-15-030* (2015) (available at: <https://www.ncai.org/resources/resolutions/tribal-equal-access-to-voting>).

⁵ Native American Rights Fund, *Obstacles at Every Turn: Barriers to Political Participation Faced by Native American Voters* (2020) (available at: https://vote.narf.org/wp-content/uploads/2020/06/obstacles_at_every_turn.pdf).

⁶ *Id.*

Allowing tribes to designate a building whose address can be used to register, pick up, and drop off a ballot would also help tremendously. Straightforward protections of this sort are included in the Native American Voting Rights Act, which was introduced in by Senator Luján. Let me just take a moment and thank you, Senator, for introducing legislation that has broad support across Indian Country.

Notably, this same piece of legislation was introduced in the House by Representative Tom Cole from Oklahoma, and Representative Sharice Davids from Kansas also recognizing that voting protections are a universal and collective issue.

Identification and Language Requirements

For many of our people, participation is not possible due to overly restrictive voter identification requirements. Studies have shown that photo ID requirements, in particular, have had a chilling effect on Native American voting turnout. In many states, voters are required to present identification, and far too often Tribal Nation issued identification cards are not considered acceptable for voter registration or to cast a ballot. This forces many Native people who wish to cast a vote to seek state-issued identification, which can be unreasonably difficult to obtain for many Native voters.

For instance, for many of our Native brothers and sisters, merely getting to a DMV means leaving the reservation and, in many instances, traveling 50 or even 100 miles. Additionally, it is cost-prohibitive for many. In my home state of Washington, for example, an individual seeking their very first license is going to pay nearly \$100, and that is money that is all too often needed for food, medicine, and other basic necessities.⁷ Additionally, in many jurisdictions, an individual cannot acquire state-issued identification without a permanent mailing address, which as I've already discussed is something many Native voters don't have.⁸

And even when Native people can get registered to vote, get to the polls, and provide appropriate identification, language barriers remain intact for the more than 350,000 speakers of our more than 175 Native languages⁹ – these Native speakers are the keepers of our histories, our traditions, and our culture. They are revered in our Native communities, but all too often, they are rejected at the ballot box.

Over a quarter of all single-race American Indian and Alaska Natives speak a language other than English at home. Two-thirds of all speakers of American Indian or Alaska Native languages reside on a reservation or in a Native village, including many who are linguistically isolated, have limited English skills, or a high rate of illiteracy. The lack of assistance or complete and accurate

⁷ *Id.*

⁸ *Id.*

⁹ U.S Department of Education, U.S. Department of Health and Human Services, & U.S. Department of Interior, *A New Chapter for Native American Languages in the United States: A Report on Federal Agency Coordination* (October 2016) (available here: https://acfmain-stage.acf.hhs.gov/sites/default/files/documents/ana/a_new_chapter_for_native_american_languages_in_the_united.pdf).

translations of voting information and materials for Limited-English Proficient American Indian and Alaska Native voters can be a substantial barrier.¹⁰

Again, legislation such as the Native American Voting Rights Act addresses these identification requirements and language barriers with simple, common sense solutions like permitting individuals to vote with any Tribal Nation issued identification card, and allowing Tribal Nations to request voting registration and ballot materials be available in their own, traditional languages.

Conclusion

I urge this Committee and all of Congress to take action to ensure that voting rights across the country are uniformly protected for everyone. Congress needs to pass legislation with the protections included in Native American Voting Rights Protection Act. We are strongest as a democracy when we are all participating equally.

I want to thank the Senate Committee for this opportunity to testify and I would be happy to answer any questions you may have.

¹⁰ *Id.*